

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
ROBERT J. GLADWIN, JUDGE

DIVISION IV

CA06-538

CEDAR CHEMICAL CO., Employer,
ZURICH AMERICAN INSURANCE CO.,
CRAWFORD and COMPANY, Insurance
Carrier, TPA, DEATH & PERMANENT
TOTAL DISABILITY TRUST FUND
APPELLANTS

MARCH 7, 2007

APPEAL FROM THE WORKERS'
COMPENSATION COMMISSION
[NO. F108608]

V.

JIMMY T. KNIGHT

APPELLEE

AFFIRMED

This is an appeal from the March 14, 2006, decision of the Arkansas Workers' Compensation Commission (Commission) awarding benefits to appellee Jimmy T. Knight. The employer and insurance carrier appellants contend that no substantial evidence exists to support the Commission's decision that appellee sustained a compensable injury. We affirm the Commission's decision.

Facts

Knight is a fifty-five year old man who had been employed with appellant for about five years when he sustained his injury on July 1, 2001. Knight worked as a lead operator in Unit Six of the Cedar Chemical Company plant where he was required to perform various

job duties involving the formulating and manufacturing of certain chemical products. Throughout his workday, Knight was required to walk up and down three flights of stairs. Knight testified that, during the middle of May 2001, he hyperextended his left knee while walking up some stairs at work. He heard a pop in his knee and felt pain that extended up into his back. Knight claims he reported this to his supervisor, but told the supervisor at the end of the day that an accident report was not necessary because he did not feel any more pain. He testified that he did not miss any work because of the incident in May 2001.

On July 1, 2001, Knight began work at 6:30 a.m. and at 11:00 a.m he noticed pain in his left knee as he was walking down some stairs. He testified that he did not know the cause of the knee pain. He continued to work until 2:00 p.m., when he took a lunch break. After lunch, he had great difficulty walking because of the pain in his left knee. Knight sought medical treatment, and x-rays were taken of his left knee on July 2, 2001. The radiologist's opinion of the x-ray was as follows: "Features consistent with gout and/or osteoarthritis with evidence for calcification ligamentous structures with other features as described which may or may not be related to trauma. History is pain."

An MRI taken on July 3, 2001, revealed the following findings: "Probable complete disruption of the anterior cruciate ligament. Probable tear and maceration of the posterior horn of the medial meniscus." On July 5, 2001, Dr. John Wilson wrote: "The MRI revealed a posterior horn tear of the medial meniscus as well as an anterior cruciate tear. Mr. Knight needs an arthroscopy. He is scheduled for this."

On August 1, 2001, Dr. Frederick Azar wrote, “He did have an acute injury recently and I believe this has wakened his arthritis.” Subsequently, Knight underwent left knee arthroscopy with Dr. Herbert Hahn on October 17, 2001. After surgery, Knight developed a postoperative sepsis of the left knee with staph aureus, which was treated with two surgical debridements and admission into the hospital from October 25, 2001, until November 19, 2001. Dr. Hahn wrote on October 16, 2002:

In response to your inquiry dated September 12, 2002, I have reviewed the entire file. The acute injury of the torn medial meniscus that prompted Mr. Knight’s surgery on 10-17-01 represents more than 50% of his current problem. It was also this surgery that precipitated the joint infection which is a great part of his current impairment. He will continue to require frequent visits to an orthopedist until such time as he undergoes total knee replacement surgery, and then he will continue to require management after that, all related to recent injury.

On January 7, 2005, a hearing was held before the administrative law judge (ALJ) to determine the compensability of Knight’s claim arising out of the July 1, 2001, job injury. The ALJ found that Knight’s injury was idiopathic in nature and, as a result, Knight failed to prove by a preponderance of the evidence that he sustained a compensable injury arising out of the course and scope of his employment on July 1, 2001. Knight appealed to the Full Commission, which filed an opinion on March 14, 2006, reversing the ALJ’s decision. The Commission held that Knight’s injury had resulted from a specific incident arising out of and in the course of his employment with the appellant. This appeal follows.

Statement of Law

In appeals involving claims for workers’ compensation, our court views the evidence in a light most favorable to the Commission’s decision and affirms the decision if it is

supported by substantial evidence. *Death & Permanent Total Disability Fund v. Legacy Ins. Servs.*, 95 Ark. App. 189, ___ S.W.3d ___ (2006). Substantial evidence exists if reasonable minds could reach the Commission's conclusion. *Foster v. Express Personnel Servs.*, 93 Ark. App. 496, ___ S.W.3d ___ (2006). We will not reverse the Commission's decision unless we are convinced that fair-minded persons with the same facts before them could not have reached the conclusions arrived at by the Commission. *White v. Georgia-Pacific Corp.*, 339 Ark. 474, 6 S.W.3d 98 (1999). In making our review, we recognize that it is the function of the Commission to determine the credibility of witnesses and the weight to be given their testimony. *Wal-Mart Stores, Inc. v. Stotts*, 74 Ark. App. 428, 49 S.W.3d 667 (2001). When the Commission weighs medical evidence and the evidence is conflicting, its resolution is a question of fact for the Commission. *Green Bay Packaging v. Bartlett*, 67 Ark. App. 332, 999 S.W.2d 695 (1999). The appellate court reviews the decision of the Commission and not that of the ALJ. *High Capacity Prods. v. Moore*, 61 Ark. App. 1, 962 S.W.2d 831 (1998).

Arkansas Code Annotated Section 11-9-102(4)(A)(i) defines compensable injury as follows:

An accidental injury causing internal or external physical harm to the body or accidental injury to prosthetic appliances, including eyeglasses, contact lenses, or hearing aids, arising out of and in the course of employment and which requires medical services or results in disability or death. An injury is "accidental" only if it is caused by a specific incident and is identifiable by time and place of occurrence.

An idiopathic injury is one whose cause is personal in nature, or peculiar to the individual. *Swaim v. Wal-Mart Assoc., Inc.*, 91 Ark. App. 120, 208 S.W.3d 837 (2005).

Injuries sustained due to an unexplained cause are different from injuries where the cause is idiopathic. *Id.* Where a claimant suffers an unexplained injury at work, it is generally compensable. *Id.* Because an idiopathic injury is not related to employment, it is generally not compensable unless conditions related to the employment contribute to the risk of injury or aggravate the injury. *Id.*

Specific incident vs. idiopathic condition

Appellant argues that the Commission's finding that Knight's injury resulted from a specific incident, as opposed to being an idiopathic condition which was personal to Knight, was arbitrary and there was clear evidence in the record to the contrary. Appellant claims that Knight's own testimony makes it clear that his injury did not result from a specific incident when he stated, "I really don't know exactly when it happened." Appellant cites *Hapney v. Rheem Manufacturing Co.*, 342 Ark. 11, 26 S.W.3d 777 (2000), for the proposition that if the claimant cannot specify the time and cause of an injury, then the injury is not compensable. The supreme court stated:

In her second point, Hapney submits that her neck injury is compensable because the injury was caused by a specific incident and was identifiable by time and place of occurrence pursuant to Ark. Code Ann. § 11-9-102(4)(A)(i). This argument is meritless and can easily be dismissed. Section 11-9-102(4)(A)(i) defines a compensable injury as one "caused by a specific incident and . . . identifiable by time and place of occurrence." Hapney's own deposition testimony reflected that she did not know how she was injured and that she did not recall anything specific happening, nor did Hapney tell her treating physician that her pain was associated with any particular, specific incident. Thus, her own words belie her argument that the injury was caused by a specific, identifiable incident.

Id. 342 Ark. at 16, 26 S.W.3d at 780.

Appellant claims that as in *Hapney*, Knight cannot remember how he was injured, and Dr. Azar's medical report of August 14, 2001, indicates that the left-knee injury did not result from a "specific incident." Further, Knight had previously injured his knee, just as the employee in *Hapney* had a previous injury to her shoulder and neck. Here, Knight had surgery on his knee related to a sports injury about twenty years ago. Also, Knight suffered a hyperextended left knee in May 2001. Therefore, appellant argues that *Hapney* should dictate the result, and that, as in *Hapney*, this court should find that Knight's injury was not caused by a specific incident.

Knight submits that *Hapney, supra*, can be distinguished from the facts in the instant case. In this case, there is uncontradicted evidence that he had to climb stairs regularly. Specifically, he noticed a pain in his left knee around 11:00 a.m. which continued to worsen. Further, there is no dispute that when he started his shift on July 1, 2001, he did not have any problems with his knee. When he ended his shift that day, he was barely mobile. He emphasizes that injuries sustained due to an unexplained cause are different from injuries where the cause is idiopathic. *Swaim, supra*. We agree with Knight's argument and hold that this case is distinguishable from *Hapney*. In the instant case, Knight knew the day and time when his knee began to hurt. He reported the pain to his supervisor and sought medical treatment the next day.

Appellant claims that *Crawford v. Single Source Transportation*, 87 Ark. App. 216, 189 S.W.3d 507 (2004), relied upon by the Commission and the appellee, can be

distinguished. In *Crawford*, the claimant was injured when he stepped out of his truck, down two steep steps, and onto an oil field. *Id.* As his foot reached the ground, appellant's knee "gave" or buckled. *Id.* As a result, appellant fell to the ground and began to feel pain in his knee. *Id.* Our court held that the work conditions contributed to the injury and found the case to be a compensable work injury instead of an idiopathic injury. Appellant argues that in the instant case, there was no danger that existed to contribute to Knight's risk of injury. Appellant contends that occasionally utilizing stairs cannot be considered to increase the risk of injury as is contemplated by the law.

Appellant cites *ERC Contractor Yard & Sales v. Robertson*, 335 Ark. 63, 977 S.W.2d 212 (1998), where the supreme court held the risk of injury accompanied with working high atop the scaffolding increased the effects of the fall and thus made the injury compensable. Appellant claims that in the instant case, the stairs in Unit Six do not increase the risk of injury so as to make Knight's idiopathic injury compensable. Appellant claims that *Crawford* is also distinguishable in that the claimant's knee gave way when he put his foot on the ground. Here, Knight testified that he could not recall a specific incident such as a hyperextension, popping or jamming of his knee. Therefore, appellant asserts that the Commission incorrectly applied the case law.

Knight claims that *Crawford* should control. Knight argues that at the time of his injury, he had been working twelve-hour shifts and was required to ascend and descend three flights of stairs throughout the day. He claims that the record is clear that his wife

testified that when he left to go to work on July 1, 2001, he was not having any problems. However, when he arrived home that day, she noticed he was in acute distress.

The Commission found his and his wife's testimony credible regarding the circumstances and facts surrounding his injury. Dr. Hahn opined that Knight's torn medial meniscus resulted from his recent work injury. Based on this evidence, Knight claims that the Commission's decision is supported by substantial evidence. We agree, and accordingly, we affirm the Commission's decision.

Affirmed.

ROBBINS and GRIFFEN, JJ., agree.